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Supreme Court U.S.
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No. 02-624

In The

Supreme Court of the United States

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ENOC C. and EMMA F. AGUILERA

Petitioners,

vs.

AUTO/OWNERS INSURANCE COMPANY;
DANIELS/NICHOLSON INSURANCE AGENCY;
FARMERS INSURANCE GROUP ET AL.;
UTICA NATIONAL INSURANCE GROUP ET AL.,

Respondents.

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On Petition For Writ Of Certiorari To The
Court of Appeals For The State Of
Arizona Appellate Court Division One

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SUPPLEMENTAL BRIEF

[RULE 18.10; 25.5]

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Enoc C. Aguilera
pro se litigant
for Petitioners
2606 West Elm Street
Phoenix, Arizona 85017
Telephone (602) 242-2632

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SUPPLEMENTAL BRIEF

[Pursuant to Rule 18.10, 25.5]

"State Court No: CV99-011756

INFRACTION of LIABILITY: With Reference made to Petition's Appendix

The courts have inadvertently granted the Respondents "judgment proof" shields, adjudicating purported approval of what the Respondents were doing against the appellants through abuse of process' claims: Petitioners raised "triable" issues of fact the courts erroneously failed to acknowledge, even when based on the courts findings and decisions: See *Hosogai v. Kadota.* (1985) 145 Ariz. 227,700 P.2d 1327; and *Burnet, supra,* 380 U.S. at 427-430, 85 S.Ct. at 1054-55, 13 L. Ed. 2d at 944-46:

Wherefore, it is immaterial whether the appellees knew the representation of the dismissed defendants was false or simply did not care and were indifferent to the truth. [See *State v. Hass* (1983) 138 Ariz. 413, 675 P.2d 673.]

COURT ORDER OF 11/07/2000:

Mailing of the defamatory police report

took place on August 6, 1997. It was not barred by the statute of limitations yet the court of appeals found motive to dismiss the case based on this erroneous decision: "In testing a complaint for a failure to state a claim, the question is whether enough is stated which could entitle the plaintiff to relief upon some theory to be developed at trial."

[The court of appeals having implied the defamatory police report as being theory, the Petitioners plead that the Honorable Court and Justices read the police report's contents before any decision is made to deny our petition. [See PHOENIX POLICE DEPARTMENT REPORT: DR NO. 61669181.] In confirmation:

"The "Association's violations only allege that Association members informed the appellants, not that Association members mailed the reports. Appellants' fail to allege any Association involvement in the mailing. In addition, the Aguileras did not attempt to amend their complaint to clarify these allegations. Although leave to amend should be freely granted, the court is not required to *sua sponte* order amendment of the complaint. The

Aguileras make additional arguments that we do not address because they either lack merit or were not raised at the trial court level."

The Respondents' retainment of counsel to defend the dismissed appellees brought about such conditions as made it inequitable for the Petitioners to claim their rights - to which as insured they would otherwise be entitled. Although the court of appeals ruled that the Association was not at fault of mailing the police report, it was the president of the Association that made, created, solicited, and initiated the transmission of the communication. See The Communications Decency Act of 1996 (A and B): *Public law* 104 Title v. Section 502 1(a), (B)(i)(ii).

[PLEADING]:

Honorable Justices of this Court, listen to reason: only the makers of the communication in the Board of Directors of Villa Charme IV Association would have access to the mailing addresses of all the Co-owner Association members' nationwide. The court's decisions clearly indicate that the justices had no intention of granting the pro se appellants their day in court. Least of all, allow the

appellants' to present expert witnesses that would have contradicted the defendants' testimony and repudiated the decisions erroneously committed by the court of appeals.

ABUSE OF JUDICIAL PROCESS: [App. at 9-2A.]

Let the Court reexamine the Honorable Gary E. Donahoe's violation of the due process clause and thus clarify his order of October 2, 2002. [App. at 9-2A to D.] Judge Donahoe's order evidences fraud - schemes by defendants jointly conspiring with their counsel and Respondents' against the Petitioners. This is verified in Appendix at 6 and 7. Stating:

"IT IS HEREBY ORDERED granting the Motion to Strike and striking Plaintiffs' Motion for Judgment as a Matter of Law, Plaintiffs' Reply In Breach of Answer and Plaintiffs' Supplemental Reply."

"IT IS FURTHER ORDERED granting the Request for Sanctions and awarding sanctions against Enoc and Emma Aguilera, jointly and severally and against their marital community." [Their property at the Association community.]

This illegality is a common practice in the state of Arizona. Bear in mind that the Petitioners are members in good standing of the Association. Well informed and well aware of the Board of Directors' activities due to our affiliation with former and present members of the Board. Honest and loyal friends that have helped us endure our ordeal to this day.

Wherefore, the lower courts are in violation of Section 1 of the Fourteen Amendment that proclaims: **"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States - depriving persons' of life, liberty and property through violation of the "due process clause" - denying persons' the equal protection of the laws."**

Thus revealing that Judge Donahoe and Judge Timmer's courts did violate the due process clause **against the appellants. This is verified in the crucial evidence that attests:**

"No cause of action may be brought in any court or administration agency against any person on account of any activity that is not in violation of any law punishable by crimi-

nal or civil penalty, and that a person has taken in good faith to implement a defence authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section." *The Communications Decency Act of 1996*. Section 501, and 502(f)(1).

Respondents' "abuse of process" based on judgments maintaining principles of sovereignty over the appellants', is ruled on by the Honorable Phillip Hall's stern decision on the real issue of the appeal:

"The court observes that, though the defendant Villa Charme IV Association WAS NOT identified as an appellee in the caption of appellants' notice of appeal, it has paid a fee in this court as an appellee." [App.7.] [App. at 8]: "IT IS ORDERED amending the caption of this appeal to add defendant Villa Charme IV Association as an appellee."

Judge Hall, overruling by ORDER Attorneys for Auto-Owners Insurance Company Michael R. Perry (007478) and Daniel W. McCarthy (013-326) in their request for "Motion to Strike Notice of Appeal," submitted November 15,

2001: In conjunction, overruling Attorney for the MAKER of the POLICE REPORT - THE COMMUNICATION - Mary B. Wilson's **JOINDER IN MOTION TO STRIKE NOTICE OF APPEAL - WITH SANCTIONS.**

SUBORNING INIMICAL INTIMIDATION:

The suborning of Judge Donahoe's court by the Respondents' counsel, was requested for the sole interest and concern of the Carriers and not that of the Association. Whereby, the Respondents' - due to this action - had denied the Association further coverage of insurance protection. The alternative solution was to end this cause through arousing the dismissed defendants, and demanding from Judge Donahoe illegal sanctions against the pro se appellants'. [See App. at 7.] In violation of Federal Law, as cited on pages 5 and 6 of this brief: §501, and §502(f)(1), of the Communications Decency Act of 1996. WHEREUPON:

THE LOWER COURTS' SUBORNING IS REBUKED BY THE HONORABLE HALL'S ORDER in App. at 9: The ruling of the lower court "was not in furtherance of the appeal, and was accordingly beyond the superior court's authority." LACKING PERSONAL JURISDICTION. If the lower court's violation of the due process clause is null

and the appellate court's finding that the Respondents' conduct was legal, it also hinged on the validity of the court judgment.

RESPONDENTS' DEFAULT IN THE PERFORMANCE OF THEIR DUTY: [App. at 26.]

The Respondents' have made it inequitable for the insured Petitioners to claim a right to which as insured would have otherwise been entitled. The Respondents', by word of their counsels' acts, should not be allowed to make any claim of disincentives against **default in performance of their duty**. See App. at 26.

THE REOPENING OF CASE NO. CV99-011756: [App. at 24 and 25.]

Due to the defendant/counsels' malicious scheme to sanction the appellants' before the court of Judge Donahoe, Judge Hull, through his ORDER **reopens** the dismissed case imposing the blame of expanding this litigation upon the perpetrators of the fraudulent scheme themselves: Respondents and their attorneys. **[See App. 5,6,7, and 8.]**

Wherefore the illegal act of expanding this litigation and the **reopening** of this action, was conceived and perpetrated by the scheming

counsel of the dismissed defendants' and the Respondents - and definitely not by the pro se defenseless Petitioners, as was implied by the defending attorneys' in their motions:

"Filed and submitted December 5th, 2001. By, BROENING OBERG WOODS WILSON & CASS. Mary B. Wilson #009266 jac Attorneys for Defendant Carole DuCharme: FARMERS PROVIDED A DEFENSE TO DEFENDANT CAROLE DUCHARME in the terminated proceeding. The Aguileras should be sanctioned for improper attempts to expand the litigation." **Counsel, conclusively admitting having been retained by the Respondents' of Farmers Insurance Company to DEFEND the MAKER and PERPETRATOR of the DEFAMATORY COMMUNICATION: Non other than, the former president of the Board of Directors' of the Association of Villa Charme IV Community.**

CONCLUSION:

Let the Court grant Petitioners' petition for writ of certiorari - with enforcement of the six year statute of limitations ruled against the Respondents - acknowledging the deprivation of the Petitioners constitutional rights under the 1st, 7th, and 14th Amendment; thus affirming that the Respondents'

willfully, knowingly, and licentiously violated the Petitioners right to be protected under the Federal Privacy Law. For which we, the Petitioners, rightfully demanded before the lower courts and appellate court entitlement to a just compensatory award.

The Petitioners, as citizens are entitled to all privileges and immunities of Citizens in the several States. For which we humbly petition the United States Supreme Court for redress of our grievances.

"And the right of action to recover damages for injuries shall never be abrogated. ***A.R.S. §12-548.***

THE PETITIONERS OF CAUSE NO. 02-624, HUMBLY REST THEIR CASE BEFORE THE HONORABLE COURT.

RESPECTFULLY SUBMITTED THIS 7th DAY OF DECEMBER, THE LORD'S YEAR OF 2002. By:

Enoc C. Aguilera, Pro Se.
2606 West Elm Street
Phoenix, Arizona 85017.
(602) 242-2632

THE BOOK MINISTRY